

## § 93.164

## 40 CFR Ch. I (7–1–10 Edition)

deadline. The approval of an alternate schedule for mitigation measures is at the discretion of the State or Tribe, and they are not required to approve an alternate schedule.

[75 FR 17278, Apr. 5, 2010]

EFFECTIVE DATE NOTE: At 75 FR 17278, Apr. 5, 2010, § 93.163 was added, effective July 6, 2010.

### § 93.164 Inter-precursor mitigation measures and offsets.

Federal agencies must reduce the same type of pollutant as being increased by the Federal action except the State or Tribe may approve offsets or mitigation measures of different precursors of the same criteria pollutant, if such trades are allowed by a State or Tribe in a SIP or TIP approved NSR regulation, is technically justified, and has a demonstrated environmental benefit.

[75 FR 17278, Apr. 5, 2010]

EFFECTIVE DATE NOTE: At 75 FR 17278, Apr. 5, 2010, § 93.164 was added, effective July 6, 2010.

### § 93.165 Early emission reduction credit programs at Federal facilities and installation subject to Federal oversight.

(a) Federal facilities and installations subject to Federal oversight can, with the approval of the State or tribal agency responsible for the SIP or TIP in that area, create an early emissions reductions credit program. The Federal agency can create the emission reduction credits in accordance with the requirements in paragraph (b) of this section and can use them in accordance with paragraph (c) of this section.

(b) Creation of emission reduction credits.

(1) Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the Federal agency must receive approval from the State or tribal agency responsible for the implementation of the SIP or TIP and from EPA's Regional Office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented, but must be

quantified before the credits are used in the General Conformity evaluation.

(2) The emission reduction methods must be consistent with the applicable SIP or TIP attainment and reasonable further progress demonstrations.

(3) The emissions reductions cannot be required by or credited to other applicable SIP or TIP provisions.

(4) Both the State or Tribe and Federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

(5) The emissions reductions must be permanent or the timeframe for the reductions must be specified.

(6) The Federal agency must document the emissions reductions and provide a copy of the document to the State or tribal air quality agency and the EPA regional office for review. The documentation must include a detailed description of the emission reduction strategy and a discussion of how it meets the requirements of paragraphs (b)(1) through (5) of this section.

(c) Use of emission reduction credits. The emission reduction credits created in accordance with paragraph (b) of this section can be used, subject to the following limitations, to reduce the emissions increase from a Federal action at the facility for the conformity evaluation.

(1) If the technique used to create the emission reduction is implemented at the same facility as the Federal action and could have occurred in conjunction with the Federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in § 93.153 and as offsets or mitigation measures required by § 93.158.

(2) If the technique used to create the emission reduction is not implemented at the same facility as the Federal action or could not have occurred in conjunction with the Federal action, then the credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in § 93.153,